

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Fort Lauderdale Division

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No. 00-6028
CR-Dimitrouleas
Magistrate-Snow

DAVID G. TRACY,
Defendant.

FILED IN
00 APR 13 PM 12:30
CLERK OF COURT
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE, FLORIDA

MOTION FOR RECONSIDERATION

COMES NOW the Accused David G. Tracy and respectfully moves this Court to reconsider its Order of March 30, 2000 that was obviously made in error and in support of this motion states the following:

1. On March 30, 2000, this honorable Court entered an order, which denied the motion of the Accused to dismiss the Indictment that had only been filed 2 days earlier, on March 28, 2000.
2. The order directed the Accused refer to *United States v. Ward* with a citation of 833 F.2d 1538 (11th Cir. 1988) which the Accused did read, leading the Accused to believe that this Court probably erred in its citation of *Ward*.

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3. Although in *Ward*, the defendant was also charged with tax evasion, the issues on appeal were completely unrelated to the issues that the Accused has raised in its motion to dismiss the indictment.

4. In particular, the Accused has attacked several fundamental defects in the Indictment that go to the heart of the accusation and the charge and thus, the subject matter jurisdiction of the Court to proceed against him.

5. The Accused understands the enormous workload of this Court and fully recognizes that an error of citation can be easily made such as here.

6. A criminal prosecution requires strict construction of the laws in question. *United States v. Anzalone*, 766 F.2d 676, 680 (1985).

7. As the indictment is now framed, the Accused would be unable to plead an acquittal or conviction in bar of future prosecutions for the same offenses. *Hagner v. United States*, 285 U.S. 427 (1932); *United States v. Debrew*, 346 U.S. 374 (1953).

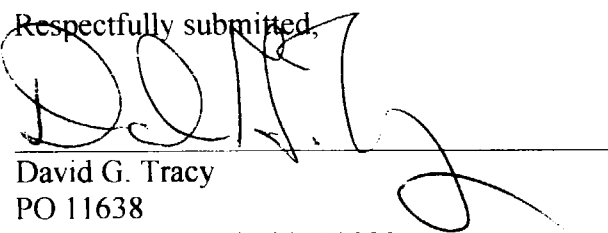
8. Because of these defects the indictment fails to afford procedural and substantive due process, fails to adequately inform the Accused of the charges against him, and deprives this Court of jurisdiction over the subject matter. U.S. Constitution Amendments V and VI; Also see *United States v. Sheehy*, 541 F.2d 123, 130 (1976).

WHEREFORE, The Accused respectfully moves this Court to reconsider its order of March 30, 2000 in light of the foregoing, and allow the United States to respond to the Accused's motion to dismiss the indictment in order that this Court may be fully informed on this matter.

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of April 2000, a copy of the foregoing was sent to the persons named below via the U.S. Postal Service or hand delivered, or Fax.

Respectfully submitted,



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